

Senate Bill No. 1596

Passed the Senate August 26, 2004

Secretary of the Senate

Passed the Assembly August 24, 2004

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2004, at _____ o'clock __M.

Private Secretary of the Governor

└

CHAPTER _____

An act to amend Sections 3361, 3362, 3691, 3691.2, and 4217 of, and to add Section 3692.4 to, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1596, Ducheny. Taxation: delinquent taxes: public auction.

(1) Existing property tax law generally authorizes a county tax collector to sell tax-defaulted property 5 years or more, or 3 years or more, as applicable, after that property has become tax defaulted. Existing law also authorizes a public agency, as provided, or a nonprofit organization to file a written objection to a proposed sale of tax-defaulted property. The written objection shall include certain written statements regarding the potential public use of the property, in the case of a public agency, or certain written statements regarding the rehabilitation and use of the property for low-income persons, in the case of a nonprofit organization.

This bill would permit a city, county, city and county, or nonprofit organization to request the tax collector to bring any residential real property that is not occupied by the owner as his or her principal place of residence to the next scheduled public auction if the taxes on the real property have been delinquent for at least 3 years and the real property will provide housing or services directly related to low-income persons. This bill also enumerates information that must be included in the request, and requires the tax collector to include the real property in the next scheduled public auction upon receiving the request. This bill would require a deed restriction to be placed on real property acquired by a nonprofit organization, as specified, and would also make conforming changes with respect to the requirement to sell tax-defaulted property and the notice of that sale.

By imposing new requirements upon tax collectors, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by



the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(3) This bill would incorporate the substantive changes in Sections 3361, 3362, 3691, 3691.2, and 4217 of the Revenue and Taxation Code proposed by both this bill and AB 2144, which would become operative only if AB 2144 and this bill are both chaptered and become effective January 1, 2005, and this bill is chaptered last.

The people of the State of California do enact as follows:

SECTION 1. Section 3361 of the Revenue and Taxation Code is amended to read:

3361. Annually, on or before June 8th, the tax collector shall publish a notice of power and intent to sell all property which will be tax defaulted for either of the following:

(a) Five years or more on the date specified.

(b) Three or more years on the date specified in the case of residential real property that could serve the public benefit by providing housing or services directly related to low-income persons, for which a request has been made by a city, county, city and county, or nonprofit organization, pursuant to Section 3692.4, to offer that property at the next scheduled public auction.

SEC. 1.5. Section 3361 of the Revenue and Taxation Code is amended to read:

3361. Annually, on or before June 8th, the tax collector shall publish a notice of power and intent to sell all property that will be tax defaulted for one of the following:

(a) Five years or more on the date specified.

(b) Three or more years on the date specified in the case of residential real property that could serve the public benefit by providing housing or services directly related to low-income persons, for which a request has been made by a city, county, city and county, or nonprofit organization, pursuant to Section 3692.4, to offer that property at the next scheduled public auction.

(c) Three years or more in the case of nonresidential commercial property, as defined in Section 3691, in an applicable county, on the date specified.



SEC. 2. Section 3362 of the Revenue and Taxation Code is amended to read:

3362. The published notice shall show:

- (a) The date of the notice.
- (b) That on July 1, five years or more will have elapsed since the property became tax defaulted, or in the case of residential real property that could serve the public benefit by providing housing or services directly related to low-income persons, three years or more have elapsed, and a request has been made by a city, county, city and county, or nonprofit organization, pursuant to Section 3692.4, to offer that property at the next scheduled public auction.
- (c) That, unless sooner redeemed or an installment plan of redemption is initiated, the property will be sold.
- (d) That the power to sell for nonpayment of taxes arises if the property remains tax defaulted at 12:01 a.m. on July 1.
- (e) That if the property is sold for nonpayment of taxes the right of redemption will terminate.
- (f) The official who will furnish all information concerning redemption.
- (g) The fiscal year for which the defaulted taxes were levied.
- (h) A description of the property. The assessments contained in this notice shall be numbered in ascending numerical order.
- (i) The amount of taxes originally declared in default opposite the description of the property.
- (j) The name of the assessee on the current roll.
- (k) The street address of the property, if any, shown on the county assessment records.

SEC. 2.5. Section 3362 of the Revenue and Taxation Code is amended to read:

3362. The published notice shall show:

- (a) The date of the notice.
- (b) (1) That on July 1, five years or more will have elapsed since the property became tax defaulted; or
- (2) That, on July 1, three years or more in the case of nonresidential commercial property, as defined in Section 3691, in an applicable county will have elapsed since the property became tax defaulted; or
- (3) That, on July 1, in the case of residential real property that could serve the public benefit by providing housing or services directly related to low-income persons, three years or more have



elapsed, and a request has been made by a city, county, city and county, or nonprofit organization, pursuant to Section 3692.4, to offer that property at the next scheduled public auction.

(c) That, unless sooner redeemed or an installment plan of redemption is initiated, the property will be sold.

(d) That the power to sell for nonpayment of taxes arises if the property remains tax defaulted at 12:01 a.m. on July 1.

(e) That if the property is sold for nonpayment of taxes the right of redemption will terminate.

(f) The official who will furnish all information concerning redemption.

(g) The fiscal year for which the defaulted taxes were levied.

(h) A description of the property. The assessments contained in this notice shall be numbered in ascending numerical order.

(i) The amount of taxes originally declared in default opposite the description of the property.

(j) The name of the assessee on the current roll.

(k) The street address of the property, if any, shown on the county assessment records.

SEC. 3. Section 3691 of the Revenue and Taxation Code is amended to read:

3691. (a) (1) Five years or more after the property has become tax defaulted, the tax collector shall have the power to sell and shall attempt to sell in accordance with Section 3692 all or any portion of tax-defaulted property that has not been redeemed, without regard to the boundaries of the parcels, as provided in this chapter, unless by other provisions of law the property is not subject to sale. Any person, regardless of any prior or existing lien on, claim to, or interest in, the property, may purchase at the sale. In the case of tax-defaulted property that has been damaged by a disaster in an area declared to be a disaster area by local, state, or federal officials and whose damage has not been substantially repaired, the five-year period set forth in this subdivision shall be tolled until five years have elapsed from the date the damage to the property was incurred.

(2) When a part of a tax-defaulted parcel is sold, the balance continues subject to redemption and shall be separately valued for the purpose of redemption in the manner provided by Chapter 2 (commencing with Section 4131) of Part 7.



(b) (1) (A) Three years or more after the property has become tax defaulted and subject to a nuisance abatement lien or a request has been made by a city, county, city and county, or nonprofit organization, pursuant to Section 3692.4, to offer that property at the next scheduled public auction, the tax collector shall have the power to sell and may sell all or any portion of tax-defaulted property that has not been redeemed, without regard to the boundaries of parcels, as provided in this chapter, unless by other provisions of law the property is not subject to sale. Any person, regardless of any prior or existing lien on, claim to, or interest in, the property, may purchase at the sale.

(B) When a part of a tax-defaulted parcel is sold, the balance continues subject to redemption and shall be separately valued for the purpose of redemption in the manner provided by Chapter 2 (commencing with Section 4131) of Part 7.

(2) Before the tax collector sells vacant residential developed property pursuant to this subdivision, actual notice, by certified mail, shall be provided to the property owner, if the property owner's identity can be determined from the county assessor's or county recorder's records. The tax collector's power of sale shall not be affected by the failure of the property owner to receive notice.

(3) Before the tax collector sells vacant residential developed property pursuant to this subdivision, notice of the sale shall be given in the manner specified by Section 3704.7.

SEC. 3.5. Section 3691 of the Revenue and Taxation Code is amended to read:

3691. (a) (1) (A) Five years or more, or three years or more in the case of nonresidential commercial property, after the property has become tax defaulted, the tax collector shall have the power to sell and shall attempt to sell in accordance with Section 3692 all or any portion of tax-defaulted property that has not been redeemed, without regard to the boundaries of the parcels, as provided in this chapter, unless by other provisions of law the property is not subject to sale. Any person, regardless of any prior or existing lien on, claim to, or interest in, the property, may purchase at the sale. In the case of tax-defaulted property that has been damaged by a disaster in an area declared to be a disaster area by local, state, or federal officials and whose damage has not been substantially repaired, the five-year period set forth in this



subdivision shall be tolled until five years have elapsed from the date the damage to the property was incurred.

(B) A county may elect, by an ordinance or resolution adopted by a majority vote of its entire governing body, to have the five-year time period described in subparagraph (A) apply to tax-defaulted nonresidential commercial property.

(C) For purposes of this subdivision, “nonresidential commercial property” means all property except the following:

(i) A constructed single-family or multifamily unit that is intended to be used primarily as a permanent residence, is used primarily as a permanent residence, or that is zoned as a residence, and the land on which that unit is constructed.

(ii) Real property that is used and zoned for producing commercial agricultural commodities.

(2) When a part of a tax-defaulted parcel is sold, the balance continues subject to redemption and shall be separately valued for the purpose of redemption in the manner provided by Chapter 2 (commencing with Section 4131) of Part 7.

(3) The tax collector shall provide notice of an intended sale under this subdivision in the manner prescribed by Sections 3704 and 3704.5 and any other applicable statute. If the intended sale is of nonresidential commercial property that has been tax-defaulted for fewer than 5 years, all of the following apply:

(A) On or before the notice date, the tax collector shall also mail, in the manner specified in paragraph (1) of subdivision (c) of Section 2924b of the Civil Code, notice containing any information contained in the publication required under Sections 3704 and 3704.5 to, as applicable, all of the following:

(i) The parties specified in paragraph (2) of subdivision (c) of Section 2924b of the Civil Code.

(ii) Each taxing agency specified in paragraph (3) of subdivision (c) of Section 2924b of the Civil Code.

(iii) Any beneficiary of a deed of trust or a mortgagee of any mortgage recorded against the nonresidential commercial property, and any assignee or vendee of these beneficiaries or mortgagees.

(B) For purposes of this paragraph:

(i) “Notice date” means a date at least 90 days before an intended sale or at least 90 days before the date upon which the property may be sold.



(ii) “Recording date of the notice of default” as used in subdivision (c) of Section 2924b of the Civil Code means a date that is 30 days before the notice date.

(iii) “Deed of trust or mortgage being foreclosed” as used in subdivision (c) of Section 2924b of the Civil Code means the defaulted tax lien.

(b) (1) (A) Three years or more after the property has become tax defaulted and subject to a nuisance abatement lien or a request has been made by a city, county, city and county, or nonprofit organization, pursuant to Section 3692.4, to offer that property at the next scheduled public auction, the tax collector shall have the power to sell and may sell all or any portion of tax-defaulted property that has not been redeemed, without regard to the boundaries of parcels, as provided in this chapter, unless by other provisions of law the property is not subject to sale. Any person, regardless of any prior or existing lien on, claim to, or interest in, the property, may purchase at the sale.

(B) When a part of a tax-defaulted parcel is sold, the balance continues subject to redemption and shall be separately valued for the purpose of redemption in the manner provided by Chapter 2 (commencing with Section 4131) of Part 7.

(2) Before the tax collector sells vacant residential developed property pursuant to this subdivision, actual notice, by certified mail, shall be provided to the property owner, if the property owner’s identity can be determined from the county assessor’s or county recorder’s records. The tax collector’s power of sale shall not be affected by the failure of the property owner to receive notice.

(3) Before the tax collector sells vacant residential developed property pursuant to this subdivision, notice of the sale shall be given in the manner specified by Section 3704.7.

(c) The amendments made to this section by the act adding this subdivision apply to property that becomes tax defaulted on or after January 1, 2005.

SEC. 4. Section 3691.2 of the Revenue and Taxation Code is amended to read:

3691.2. The notice shall specify:

(a) That five years or more have elapsed since the taxes or assessments on the parcel were declared in default, or that, pursuant to Section 3692.4, three years or more have elapsed and



a request has been made by a city, county, city and county, or nonprofit organization to offer that property at the next scheduled public auction.

(b) That the property was duly assessed for taxation and the tax legally levied.

(c) That the property is subject to sale for nonpayment of taxes.

(d) The amount of taxes originally declared to be in default, unless there has been a partial cancellation of taxes, a redemption from a portion thereof, or a correction under Sections 4831.5 and 4876.5, in any of which events, the amount shall be the balance remaining.

(e) A metes and bounds or lot-block-tract description of the property.

SEC. 4.5. Section 3691.2 of the Revenue and Taxation Code is amended to read:

3691.2. The notice shall specify:

(a) A statement that five years or more have elapsed since the taxes or assessments on the parcel were declared in default; that three years or more in the case of nonresidential commercial property, as defined in Section 3691, have elapsed since the taxes or assessments on the parcel were declared in default; or that, pursuant to Section 3692.4, three years or more have elapsed and a request has been made by a city, county, city and county, or nonprofit organization to offer that property at the next scheduled public auction.

(b) That the property was duly assessed for taxation and the tax legally levied.

(c) That the property is subject to sale for nonpayment of taxes.

(d) The amount of taxes originally declared to be in default, unless there has been a partial cancellation of taxes, a redemption from a portion thereof, or a correction under Sections 4831.5 and 4876.5, in any of which events, the amount shall be the balance remaining.

(e) A metes and bounds or lot-block-tract description of the property.

SEC. 5. Section 3692.4 is added to the Revenue and Taxation Code, to read:

3692.4. (a) Notwithstanding any other provision of law, any county, city, city and county, or any nonprofit organization as defined in Section 3772.5, may request the tax collector to bring



to the next scheduled public auction any residential real property that meets all of the following requirements:

(1) The property taxes have been delinquent for at least three years.

(2) The real property will serve the public benefit of providing housing directly related to low-income persons.

(3) The real property is not occupied by the owner as his or her principal place of residence.

(b) Every request submitted to the tax collector shall include the following:

(1) A formal resolution of the governing board of the county, city, city and county, or nonprofit organization, requesting the accelerated auction of the real property and stating the public benefit.

(2) A written plan for the development, rehabilitation, or proposed use of the real property and how low-income persons will be served.

(3) If the request is from a nonprofit organization, the request shall have a formal resolution of approval from the city council of the city in which the real property is located, or from the board of supervisors of the county if the real property is located in an unincorporated area.

(c) Upon receiving a request as provided by this section, the tax collector shall include the real property in the next scheduled public auction.

(d) If the real property is acquired by a nonprofit organization at auction, a deed restriction shall be placed on the real property, requiring the real property to be used for low-income housing for a period of 30 years.

(e) This section may not be construed to preclude the application, to the real property or the current owners of that property, of any other provision of law not in conflict with this section.

SEC. 6. Section 4217 of the Revenue and Taxation Code is amended to read:

4217. Any person may elect to pay delinquent taxes in installments under this article at any time prior to 5 p.m. on the last business day prior to the date when the tax collector obtains the power to sell the property, except that if payment of delinquent taxes in installments is started under this article and the amount



required to be paid in any fiscal year is not paid as required by this article, payments on property which, but for the installment redemption plan, would have been subject to a power of sale pursuant to Section 3691 during the calendar year in which default on the redemption plan occurs may not again be started under this article. All other payments may be started on or after July 1 of the fiscal year commencing after the fiscal year in which default occurred.

Persons electing to pay delinquent taxes in installments may be subject to a fee for processing their request.

The fee for payment of delinquent taxes in installments to the tax collector may be established by ordinance by the board of supervisors. The fee shall be governed by the provisions of Chapter 12.5 (commencing with Section 54985) of Part 1 of Division 2 of Title 5 of the Government Code and may be collected on the tax bill.

SEC. 6.5. Section 4217 of the Revenue and Taxation Code is amended to read:

4217. (a) Any person may elect to pay delinquent taxes in installments under this article at any time prior to 5 p.m. on the last business day prior to the date when the tax collector obtains the power to sell the property, except that if payment of delinquent taxes in installments is started under this article and the amount required to be paid in any fiscal year is not paid as required by this article, payments on property that, but for the installment redemption plan, would have been subject to a power of sale pursuant to Section 3691 during the calendar year in which default on the redemption plan occurs may not again be started under this article. All other payments may be started on or after July 1 of the fiscal year commencing after the fiscal year in which default occurred.

(b) (1) A person electing to pay delinquent taxes in installments may be subject to a fee for processing the person's request.

(2) The fee for payment of delinquent taxes in installments to the tax collector may be established by ordinance by the board of supervisors. The fee shall be governed by the provisions of Chapter 12.5 (commencing with Section 54985) of Part 1 of Division 2 of Title 5 of the Government Code and may be collected on the tax bill.



SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, within the meaning of Section 17556 of the Government Code.

SEC. 8. Section 1.5 of this bill incorporates the same substantive changes to Section 3361 of the Revenue and Taxation Code proposed by both this bill and AB 2144. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2005, (2) each bill amends Section 3361 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 2144, in which case Section 1 of this bill shall not become operative.

SEC. 9. Section 2.5 of this bill incorporates the same substantive changes to Section 3362 of the Revenue and Taxation Code proposed by both this bill and AB 2144. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2005, (2) each bill amends Section 3362 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 2144, in which case Section 2 of this bill shall not become operative.

SEC. 10. Section 3.5 of this bill incorporates amendments to Section 3691 of the Revenue and Taxation Code proposed by both this bill and AB 2144. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2005, (2) each bill amends Section 3691 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 2144, in which case Section 3 of this bill shall not become operative.

SEC. 11. Section 4.5 of this bill incorporates the same substantive changes to Section 3691.2 of the Revenue and Taxation Code proposed by both this bill and AB 2144. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2005, (2) each bill amends Section 3691.2 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 2144, in which case Section 4 of this bill shall not become operative.

SEC. 12. Section 6.5 of this bill incorporates the same substantive changes to Section 4217 of the Revenue and Taxation Code proposed by both this bill and AB 2144. It shall only become



operative if (1) both bills are enacted and become effective on or before January 1, 2005, (2) each bill amends Section 4217 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 2144, in which case Section 6 of this bill shall not become operative.



Approved _____, 2004

Governor

